

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-69593; File No. SR-CTA/CQ-2013-03)

May 16, 2013

Consolidated Tape Association; Notice of Filing and Immediate Effectiveness of the Eighteenth Charges Amendment to the Second Restatement of the CTA Plan and Tenth Charges Amendment to the Restated CQ Plan

Pursuant to Section 11A of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 608 thereunder,<sup>2</sup> notice is hereby given that on May 10, 2013, the Consolidated Tape Association (“CTA”) Plan and Consolidated Quotation (“CQ”) Plan participants (“Participants”)<sup>3</sup> filed with the Securities and Exchange Commission (“Commission”) a proposal to amend the Second Restatement of the CTA Plan and Restated CQ Plan (collectively, the “Plans”).<sup>4</sup> The amendments (“Reversal Amendments”) propose to reverse the fee changes for which the

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<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 242.608.

<sup>3</sup> Each participant executed the proposed amendment. The Participants are: BATS Exchange, Inc., BATS-Y Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc. (“EDGA”), EDGX Exchange, Inc. (“EDGX”), Financial Industry Regulatory Authority, Inc. (“FINRA”), International Securities Exchange, LLC, NASDAQ OMX BX, Inc. (“Nasdaq BX”), NASDAQ OMX PHLX, Inc. (“Nasdaq PSX”), Nasdaq Stock Market LLC, National Stock Exchange, New York Stock Exchange LLC (“NYSE”), NYSE MKT LLC (formerly NYSE Amex, Inc.), and NYSE Arca, Inc. (“NYSE Arca”).

<sup>4</sup> See Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (May 20, 1974) (declaring the CTA Plan effective); 15009 (July 28, 1978), 43 FR 34851 (August 7, 1978) (temporarily authorizing the CQ Plan); and 16518 (January 22, 1980), 45 FR 6521 (January 28, 1980) (permanently authorizing the CQ Plan). The most recent restatement of both Plans was in 1995. The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a “transaction reporting plan” under Rule 601 under the Act, 17 CFR 242.601, and a “national market system plan” under Rule 608 under the Act, 17 CFR 242.608. The CQ Plan, pursuant to which markets collect and disseminate bid/ask quotation information for listed securities, is a “national market system plan” under Rule 608 under the Act, 17 CFR 242.608.

Participants filed in the Sixteenth<sup>5</sup> and Seventeenth<sup>6</sup> Charges Amendments to the CTA Plan and the Eighth<sup>7</sup> and Ninth<sup>8</sup> Charges Amendments to the CQ Plan.

Pursuant to Rule 608(b)(3)(i) under Regulation NMS,<sup>9</sup> the Participants designated the Reversal Amendments as establishing or changing a fee or other charge collected on their behalf in connection with access to, or use of, the facilities contemplated by the Plans. As a result, the Reversal Amendments became effective upon filing with the Commission. At any time within 60 days of the filing of the Reversal Amendments, the Commission may summarily abrogate the Reversal Amendments and require that the Reversal Amendments be refiled in accordance with paragraph (a)(1) of Rule 608 and reviewed in accordance with paragraph (b)(2) of Rule 608, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

The Commission is publishing this notice to solicit comments from interested persons on the proposed Reversal Amendments.

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<sup>5</sup> See Securities Exchange Act Release No. 69157 (March 18, 2013), 78 FR 17946 (March 25, 2013) (File No. SR-CTA/CQ-2013-01). The Commission received two comment letters on the proposal. See also Letter to Elizabeth M. Murphy, Secretary, Commission from Henry Schwartz, President and Founder, Trade Alert LLC, dated March 20, 2013 (“Schwartz Letter”) and from Kimberly Unger, Esq., CEO and Executive Director, The Security Traders Association of New York, Inc. (“STANY”), dated April 10, 2013 (“STANY Letter”).

<sup>6</sup> See Securities Exchange Act Release No. 69318 (April 5, 2013), 78 FR 21648 (April 11, 2013) (File No. SR-CTA/CQ-2013-02). The Commission received one comment on the proposal. See also Letter to the Commission from James Smith, Director, Hoffman Estates, IL, dated April 8, 2013.

<sup>7</sup> See supra note 5

<sup>8</sup> See supra note 6.

<sup>9</sup> 17 CFR 242.608(b)(3)(i).

I. Rule 608(a)

A. Purpose of the Amendments

On March 11, 2013, the Participants filed with the Commission for immediate effectiveness the Sixteenth Charges Amendment to the CTA Plan and the Eighth Charges Amendment to the CQ Plan (the “March 11 Filings”). Those two amendments (the “Two Amendments”) made a number of changes to the fees payable under the Plans in an effort to achieve greater simplicity and to reduce administrative burdens.

Among other things, they changed professional subscriber charges, nonprofessional subscriber charges, per-quote packet charges and access charges. They also added new redistribution charges, multiple feed charges and late-reporting charges, and the deletion of the Network B ticker charge.

In addition, they consolidated, simplified and updated the market data fee schedules under both Plans by replacing Schedules A-1 through A-4 of Exhibit E to the CTA Plan and Schedules A-1 through A-4 of Exhibit E to the CQ Plan with a single, consolidated fee schedule (the “CTA/CQ Fee Schedule”).

The Participants announced that all of those proposed changes would become effective as of April 1, 2013.

On March 27, 2013, the Participants filed with the Commission for immediate effectiveness the Seventeenth Charges Amendment to the CTA Plan and the Ninth Charges Amendment to the CQ Plan (the “March 27 Filings”).

The March 27 Filings amended the effective date for one of the professional subscriber device fee changes set forth in March 11 Filings, the change by which the Participants combined separate monthly device fees that professional subscribers pay for

Network B last sale information under the CTA Plan and for Network B quotation information under the CQ Plan into one combined monthly fee of \$24.00 per device for both last sale information and quotation information (the “Network B Device Fee Change”).

The March 27 Filings delayed the effective date of the Network B Device Fee Change from April 1, 2013 to July 1, 2013.

After consultation with Commission staff, the Participants propose to reverse all of the fee changes (the “Fee Simplification Changes”) set forth in the March 11 Filings and the March 27 Filings. As a result of the reversal, the Fee Simplification Changes set forth in the March 11 Filings would not be deemed to have taken effect on April 1, 2013 and the Fee Simplification Changes set forth in the March 27 Filings, would not take effect on July 1, 2013, meaning that the Participants would not implement the Fee Simplification Changes for the month of April 2013 or otherwise. The Participants anticipate re-examining the Fee Simplification Amendments with the potential for re-filing them at a later date.

B. Governing or Constituent Documents

Not applicable.

C. Implementation of the Amendments

The Reversal Amendments shall be effective when this Agreement has been executed on behalf of each Participant and the amendment has been filed with the Commission. Once effective, the Reversal Amendment would cause the changes set forth in the March 11 Filings not to have become effective on April 1, 2013, and would cause the changes set forth in the March 27 amendments not to become effective on July 1, 2013. This means that the Participants

would not implement the Fee Simplification Changes for the month of April 2013 or otherwise.

D. Development and Implementation Phases

Not applicable.

E. Analysis of Impact on Competition

The proposed amendments do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Participants do not believe that the proposed plan amendments introduce terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Act.<sup>10</sup>

F. Written Understanding or Agreements relating to Interpretation of, or Participation in, Plan

Not applicable.

G. Approval by Sponsors in Accordance with Plan

See Item I(C) above.

H. Description of Operation of Facility Contemplated by the Proposed Amendments

Not applicable.

I. Terms and Conditions of Access

See Item I(A) above.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

See Item I(A) above.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

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<sup>10</sup> 15 U.S.C. 78k-1(c)(1)(D).

II. Rule 601(a) (solely in its application to the Amendments to the CTA Plan)

A. Equity Securities for which Transaction Reports Shall be Required by the Plan

Not applicable.

B. Reporting Requirements

Not applicable.

C. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

D. Manner of Consolidation

Not applicable.

E. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

F. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

G. Terms of Access to Transaction Reports

Not applicable.

H. Identification of Marketplace of Execution

Not applicable.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed amendments are consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CTA/CQ-2013-03 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CTA/CQ-2013-03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the Amendments that are filed with the Commission, and all written communications relating to the Amendments between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of the Amendments also will be available for inspection and copying at the principal office of the CTA.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CTA/CQ-2013-03 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(27).